



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MEMORANDUM**

**Date:** June 30, 2015

**To:** Robert Best, Chairman, & Members, Planning Board

**From:** Jillian M. Harris, AICP, Planning & Zoning Administrator

**Subject:** **El Tapatio Mexicano Restaurant, LLC. (applicant), and Pennichuck Square Limited Partnership, c/o Renwood Companies (owner)** – Review for acceptance and consideration of Final Approval of an application for a waiver of full site plan review and a parking waiver to add an outdoor seating area. The parcel is located at 709 Milford Road, Unit 4C, in the C-2 (General Commercial) and Aquifer Conservation Districts, and the Wellhead Protection Area. Tax Map 2B, Lot 360.

**Background:** The Applicant requests Acceptance and consideration for Final Approval of a request for waiver of full site plan review and a parking waiver to add an outdoor seating area to the El Tapatio Restaurant located in Unit 4B/4C of Pennichuck Square. El Tapatio Restaurant previously received approval in November 2011 to expand the restaurant from 2,200 SF to 3,250 SF, with a waiver to allow 14 parking spaces whereas 62 were required at that time (See attached).

### **Existing Restaurant:**

The hours of operation for the El Tapatio Restaurant are as follows:

Monday through Thursday: 11 AM – 10 PM

Friday through Saturday: 11 AM – 11 PM

Sundays: 12 PM – 9 PM

According to the Applicant, the maximum number of employees on any shift is twelve. The existing restaurant space contains a total of 131 seats. Under current parking regulations, a restaurant requires 1 parking space for three seating accommodations plus 1 space for each employee on shift of largest employment. Therefore, the current parking standards require a total of 56 parking spaces  $[(131/3) + 12]$ .

### **Proposed Restaurant:**

The Applicant seeks to expand the restaurant by adding an outdoor seating area consisting of 24 seats. The hours of operation will remain unchanged. The maximum number of employees per shift will increase from approximately twelve to a total of thirteen. The total number of seats (which includes bar seating) would increase from one hundred thirty one (131) to a total of one hundred fifty five (155), a net increase of 24 seats. Current parking standards would require a total of 65 parking spaces  $[(155/3) + 13]$  for the expanded restaurant, which represents a net increase of 9 spaces from the existing restaurant conditions.

According to prior site plan approvals, Units 4B and 4C are allotted a total of 14.3 parking spaces. Although the Planning Board granted a parking waiver in 2007 (Unit 4C – Surwell Café/Restaurant - to allow 10 parking spaces whereas 55 were required) and in 2011 (to allow 14 parking spaces whereas 62 were required), Staff maintains that the Applicant must seek a waiver to allow 14 parking spaces

whereas 65 spaces are required – a difference of 51 parking spaces. Such a waiver would represent an increase of 3 parking spaces from the waiver granted previously by the Board in 2011.

**Completeness:** Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

**Waivers:** The applicant is requesting a waiver of full site plan review and a waiver of Section 7.03 – Parking – to permit 14 spaces whereas 65 are required.

**Recommendation:** Staff recommends that the Board vote with respect to any waivers utilizing the criteria from RSA 674:44:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**
- Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

**Staff recommends that the Board grant conditional final approval to the application, with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans to be signed by the Applicant and Property Owner;
2. Any waivers granted shall be listed and described on the Final Plan;
3. Applicant shall address any forthcoming comments from MVD;
4. Applicant shall address any forthcoming comments from the Wastewater Division;
5. Applicant shall address any forthcoming comments from the Public Works Department;
6. Applicant shall address any forthcoming comments from the Fire Department;
7. Applicant shall address any forthcoming comments from the Conservation Commission (as applicable);
8. Address the following planning staff technical comments:
  - a. Please include the street address number on the annotated site plan;
  - b. Please number the notes that are currently in paragraph form on the annotated site plan.

Cc: File  
Correspondence  
Arturo Aguirre, Applicant  
Ian Wood, Owner

Ec: Fire Captain John Manuele  
Kyle Fox, Deputy Director of Public Works/Town Engineer  
Ken Conaty & Jim Tayler, Wastewater Division

Tim Tenhave, Conservation Commission Chair  
Building Official Fred Kelley  
Carol Miner, Building Department